IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 2650 of 2005

Between:

B. Thimmaiah, S/o. Thimmaiah, Secretary and Correspondent of Sri CVidya Niketan Educational Society, Gayatri Estates, Devanagar, Kurnool.

..... PETITIONER

AND

1 Government of Andhra Pradesh, Rep. by Principal Secretary,
Higher Education Department, Secretariat, Hyderabad.
2 Regional Joint Director of Education, Cuddapah.
3 Smt. S. Elbersal, W/o. S. Immanual,
R/o. H.No. 45/86, N.R. Nagar, President S.J.S. Degree College,
Staff Association, Kurnool.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to may declare the Memo No. 5945/CE-11-2/2003-12 dt. 29-12-2004and the consequential proceedings issued by the 2nd respondent in Rc.No. 1631/A3/2004-1 dt. 22-1-2005 as illegal arbitrary and against the principles of natural justice and set aside the same and direct the 1st respondent by an order more in the nature of Writ of Mandamus to dispose off the appeal as per the direction of the Hon'ble High Court orders passed in Writ Petition No. 16137/99 dt. 12-12-2002 influenced by the 2nd respondents.

Counsel for the Petitioner : Mr. P.V.VENKATESWARA RAO

Counsel for the Respondents 1 & 2 : GP FOR EDUCATION

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.2650 OF 2005

ORDER :

The third respondent herein who was working as a Lecturer in Sri Jayendra Saraswathi Degree College for Women, being managed by the petitioner society, filed an Appeal before the 1st respondent herein against the orders passed by the 2nd respondent - Regional Joint Director of Collegiate Education, Kadapa, dated 20-06-2003. It is not in dispute that the writ petitioner was issued a notice in the said Appeal and the necessary counter-affidavit has also been filed on its behalf. The Appeal is still pending. While so, the 1st respondent by Memo dated 29-12-2004 informed the Regional Joint Director of Collegiate Education, Kadapa that his report dated 20-06-2003 does not reveal any documentary evidence to show that the Lecturers / Non-Teaching Staff who were working in the said institution were on the rolls as on that date and therefore requesting him to examine the entire case and to send a detailed report with documentary evidence on or before 15-1-2005 so as to enable the 1st respondent to hear both the parties. The said memo dated 29-12-2004 is under challenge in this writ petition contending that the said order amounts to remanding the matter back for fresh enquiry which is not permissible under Section 80(2) of The Andhra Pradesh Education Act, 1982 (for short, 'the Act') and at any rate since no opportunity was afforded to the petitioner before passing the said order, the same is arbitrary and illegal and liable to be set aside.

I do not find any substance in the said contention. On the face of it, the impugned memo is nothing but a communication to the 2nd respondent - Regional Joint Director of Collegiate Education calling for a report from him with regard to certain aspects specified thereunder together with the necessary documents. In the

impugned memo itself, it was clearly stated that on the basis of the said report the 1st respondent will hear both the parties. Hence, there is absolutely no reason to hold that the impugned order amounts to remitting the matter to the 2nd respondent – Regional Joint Director.

The Writ Petition is misconceived and accordingly the same is dismissed. However, it is made clear that both the parties shall be afforded an opportunity to submit their objections, if any, to the report that may be furnished by the 2nd respondent in pursuance of the impugned memo dated 29-12-2004 before passing final orders in the Appeal pending before the 1st respondent. No costs.

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23rd February, 2005.

gbs

To

1. The Principal Secretary, Government of Andhra Pradesh,

   Higher Education Department, Secretariat, Hyderabad.
2 The Regional Joint Director of Education, Cuddapah.
3. Two CCs to G.P. for Education, High Court of AP Bldgs, Hyderabad (OUT).

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